

REMARKS

The Examiner is thanked for the thorough examination of the present application. The Office Action, however, tentatively rejected all claims 1-15. In response, Applicant submits the following distinguishing remarks, and respectfully requests reconsideration and withdrawal of the rejections. Claims 1 and 11 are the independent claim, and therefore Applicant's remarks will focus on defining features of these claims.

Claim 1 stands rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Bhela (US 7,224,987). Applicant respectfully requests reconsideration and withdrawal of the rejection for at least the reasons discussed below. Claim 1 recites:

1. A location system, comprising:
***an area agent, comprising a presence application;
a presence server, collecting location awareness information
supporting the presence application; and
a local area server, returning location information in response
to a request from the area agent;
wherein the area agent generates the location awareness
information according to the location information obtained from the
local area server.***

(*Emphasis added*). Claim 1 patently defines over the cited art for at least the reason that the cited art fails to disclose the features emphasized above.

In forming the rejection, the Office Action regarded the area agent as the core service module in Bhela. This correlation is misplaced. For example, column 8 lines 32-38 in Bhela teach: "the core services module 306 acts as the general processing module for the location services server 202. The core services module 306 takes care of many duties, such as authenticating and authorizing location consumers, and filtering location information according to privacy information provided by a location owner in

response to an information request.” Consequently, the core service module in Bhela may resemble the local area server of the claimed embodiment, but the claimed area agent is merely a device for requesting the local area server to return the location information. In this regard, claim 1 specifically recites that: “**a local area server, returning location information in response to a request from the area agent.**” The area agent doesn’t perform functions, such as authenticating and authorizing location consumer or filtering location information according to privacy information provided by a location owner in response to an information request. Consequently, the core service module of Bhela clearly does not properly correspond to the area agent in the claimed embodiment. For at least this reason, the rejection of claim 1 should be withdrawn.

In addition, the claimed presence server, which is located in the exterior network (see e.g., paragraph [0026]), is not disclosed in Bhela. The Office Action alleged that the presence server is disclosed by the location provider module of Bhela. Specifically, the Office Action cited col. 10, lines 60-65 of Bhela as teaching this feature. This portion of Bhela actually states:

... a notification module 322 to notify the location consumer. In the illustrated embodiment, the notification module 322 transmits the location information to the location consumer. Alternatively, the notification module 322 may also utilize an external notification server. Thus, the notification module 322 performs the function of a notification facilitator. Those skilled in the art will recognize that there are many ways that may be utilized to provide notification to a location consumer that fall within the scope of the present invention.

Claim 1, however, specifies: “**a presence server, collecting location awareness information supporting the presence application.**” Claim 1 further specifies that the presence application is part of the area agent. Simply stated, these expressly-claimed features are not disclosed in the above-quoted portion of Bhela, which as been relied on

by the Office Action. For this additional reason, the rejection of claim 1 should be withdrawn.

With regard to independent claim 11, this claim stands rejected under 35 U.S.C 103(a) as allegedly being unpatentable over Bhela in view of Viikari. The combination of Bhela and Viikari does not teach all features of claims 11. The rejection under 35 USC 103 is overcome.

In this regard, claim 11 recites:

11. A location awareness method for operating a presence application in an area agent, comprising the steps of:
acquiring an area tag;
requesting location information from a local area server by sending the area tag;
obtaining the location information from the local area server;
generating location awareness information accordingly; and
submitting the location awareness information.

(*Emphasis added*). Claim 11 patently defines over the cited art for at least the reason that the cited art fails to disclose the features emphasized above. In this regard, certain features of claim 11, for relevant purposes, are similar to certain of the distinguishing features of claim 1. Therefore, the rejection of claim 11 should be withdrawn for reasons similar to the reasons advanced above in connection with claim 1.

As a separate and independent basis for the patentability of claim 11, Applicant submits that the combination of Bhela and Viikari is improper and therefore does not render the claims obvious. In this regard, the Office Action combined Viikari with Bhela to reject claim 11 on the solely expressed basis that “it would have been obvious ... to enable generation of location information according to the access point relaying the location request.” (see e.g., Office Action, p. 5)

This rationale is both incomplete and improper in view of the established standards for rejections under 35 U.S.C. § 103.

In this regard, the MPEP section 2141 states:

The Supreme Court in KSR reaffirmed the familiar framework for determining obviousness as set forth in *Graham v. John Deere Co.* (383 U.S. 1, 148 USPQ 459 (1966))... As reiterated by the Supreme Court in KSR, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries. The factual inquiries enunciated by the Court are as follows:

- (A) Ascertaining the differences between the claimed invention and the prior art; and
- (B) Ascertaining the differences between the claimed invention and the prior art; and
- (C) Resolving the level of ordinary skill in the pertinent art.

In addition:

When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to:

- (A) The claimed invention must be considered as a whole;
- (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;
- (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention and
- (D) Reasonable expectation of success is the standard with which obviousness is determined.

Hodosh v. Block Drug Co., Inc., 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

As reflected above, the foregoing approach to obviousness determinations was recently confirmed by the United States Supreme Court decision in KSR INTERNATIONAL CO. V. TELEFLEX INC. ET AL. 550 U.S. 1, 82 USPQ2d 1385, 1395-97 (2007), where the Court stated:

In *Graham v. John Deere Co. of Kansas City*, 383 U. S. 1 (1966), the Court set out a framework for applying the statutory language of §103,

language itself based on the logic of the earlier decision in *Hotchkiss v. Greenwood*, 11 How. 248 (1851), and its progeny. See 383 U. S., at 15–17. The analysis is objective:

“Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” *Id.*, at 17–18.

Indeed, as now expressly embodied in MPEP 2143, “[t]he **key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious**. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.” (*Emphasis added, MPEP 2143*). “Objective evidence relevant to the issue of obviousness **must** be evaluated by Office personnel.” (MPEP 2141). “The key to supporting any rejection under 35 U.S.C. 103 is the **clear articulation of the reason(s) why the claimed invention would have been obvious**. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 **should be made explicit**. The Court quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that ‘[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.’” (MPEP 2141).

Simply stated, the Office Action has failed to at least (1) ascertain the differences between and prior art and the claims in issue; and (2) resolve the level of ordinary skill in the art. Furthermore, the alleged rationale for combining the references is merely an improper conclusory statement that embodies clear and improper hindsight rationale.

As set forth above, the Office Action alleged that the combination the references “would have been obvious ... to enable generation of location information according to the access point relaying the location request.” However, the Office Action doesn’t explain why this would be desirable or necessary (i.e., why would someone skilled in the art see this as an obvious/apparent shortcoming of Bhela, and therefore seek to look to a solution to this shortcoming). Without this type of explanation, the rejection can be seen as nothing more than an improper hindsight reconstruction.

For at least these additional reasons, Applicant submits that the rejections of all claims are improper and should be withdrawn.

Claim 16 is newly added. Regarding this claim, the limitation “exterior network” is supported in the paragraph [0026] in this application, which describes that “A firewall 32 between the wireless local area network (LAN) and the exterior network controls inbound and outbound traffic. The presence server 31 is located in the exterior network, collecting location awareness information from each current user and provides corresponding location awareness information upon request from the users of the presence application.” And from the location of the firewall in the Fig.2a in this application, artisans will understand that the local area server is disposed in the interior network. However, neither Bhela nor any cited art teaches or suggests the limitations that “the present server (regarded as the notification module 322 of Bhela by the Office Action) is disposed in a exterior network, and the local area server(regarded as the local provider module 316 by the Office Action) is disposed in a local area network” as recited in the claim 16 (since the notification module 322 and the local provider module 316 are

all just one of the components of the location services server 202 in Bhela).

Consequently, new claim 16 should be allowed.

Insofar as independent claims 1 and 11 are allowable over the prior art of record, their dependent claims 2-10 and 12-16 are allowable as a matter of law, for at least the reason that the dependent claims contain all feature/elements/steps of their respective independent claims 1 and 11.

Should the Examiner believe that a teleconference would be helpful to expedite the examination of this application, the Examiner is invited to contact the undersigned.

No fee is believed to be due in connection with this amendment and response. If, however, any fee is deemed to be payable, you are hereby authorized to charge any such fee to Deposit Account No. 20-0778.

Respectfully submitted,

/Daniel R. McClure/

By:

Daniel R. McClure, Reg. No. 38,962

Thomas, Kayden, Horstemeyer & Risley, LLP
600 Galleria Pkwy, SE
Suite 1500
Atlanta, GA 30339
770-933-9500